United Nations CEDAW/C/ESP/CO/7-8

Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the combined seventh and eighth periodic reports of Spain*

1. The Committee considered the combined seventh and eighth periodic reports of Spain (CEDAW/C/ESP/7-8) at its 1309th and 1310th meetings, on 8 July 2015 (see CEDAW/C/SR.1309 and 1310). The Committee's list of issues and questions is contained in CEDAW/C/ESP/Q/7-8 and the responses of Spain are contained in CEDAW/C/ESP/Q/7-8/Add.1.

A. Introduction

2. The Committee expresses its appreciation to the State party for the timely submission of its combined seventh and eighth periodic reports and for its written replies to the list of issues and questions raised by the pre-sessional working group. It welcomes the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee notes the State party's delegation, which was led by the Ambassador and Permanent Representative of Spain to the United Nations Office and other international organizations in Geneva, Ana María Menéndez, and which comprised representatives of the Office of the Public Prosecutor, the Ministry of Foreign Affairs and Cooperation, the Ministry of Justice, the Ministry of the Interior, the Ministry of Employment and Social Security, the Ministry of Health, Social Services and Equality, the Ministry of Education, Culture and Sport and the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva.

B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2009 of the State party's sixth periodic report (CEDAW/C/ESP/6) in undertaking legislative reforms, in particular the adoption of the following:

* Adopted by the Committee at its sixty-first session (6-24 July 2015).

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(a) Law No. 4/2015 on the legal status of the victims of crime;

(b) Organic Law No. 1/2015 amending the Penal Code with regard to violence against women;

(c) Law No. 12/2009 of October 2009 on asylum and subsidiary protection, which implements in national law European Union directives on asylum and explicitly recognizes gender-based persecution of women as grounds for refugee recognition.

5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption of the following:

(a) National Strategy for the Eradication of Violence against Women (2013-2016);

(b) Strategic Plan on Equal Opportunities (2014-2016);

(c) Action Plan for Equality between Women and Men in the Information Society (2014-2017).

6. The Committee welcomes the fact that, in the period since the consideration of the State party's sixth periodic report, the State party has acceded to the following international instruments:

(a) Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, in 2014;

(b) Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2013;

(c) Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, in 2010;

(d) Council of Europe Convention on Action against Trafficking in Human Beings, in 2010;

(e) International Convention for the Protection of All Persons from Enforced Disappearance, in 2009.

C. Principal areas of concern and recommendations

Parliaments

7. **The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites the national parliament and the parliaments of the autonomous communities to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.**

General context

8. The Committee notes with concern that the financial and economic crisis and austerity measures taken by the State party to address it have had negative effects on women in all spheres of life. The Committee also notes with concern that no study or evaluation has been conducted to monitor the gender-specific effects of the crisis. The Committee takes into account the exceptional circumstances that the State party has been facing during the past few years. It reminds the State party, however, that, even in a time of fiscal constraint and economic crisis, special efforts must be made to respect women's rights, sustain and expand social investment and social protection and employ a gender-sensitive approach, according priority to women in vulnerable situations and avoiding retrogressive measures.

9. **The Committee encourages the State party:**

(a) **To undertake the studies and evaluations necessary to monitor the gender-specific effects of the financial and economic crisis;**

(b) **To ensure an internal redistribution of its resources to overcome the consequences of the crisis, according priority to measures that support gender equality in all fields, and devise an effective strategy to ensure the full implementation of the Convention;**

(c) **To collect statistics disaggregated by sex in all relevant areas, especially on all aspects of employment in the public and private sectors.**

Visibility of the Convention, the Optional Protocol and the Committee's general recommendations

10. The Committee notes with concern the lack of understanding by the State party of its due diligence obligation and the lack of follow-up to the Committee's views on communication No. 47/2012, *González Carreño v. Spain*. It notes the insufficient action taken by the State party to train judges and lawyers on the Convention and the Optional Protocol and to integrate their provisions into its legal framework. It is further concerned that women themselves, especially women in rural areas and migrant women, are unaware of their rights under the Convention and thus lack the information necessary to claim such rights.

11. **The Committee recommends that the State party:**

(a) **Ensure that the Convention, the Optional Protocol and the Committee's general recommendations are sufficiently known and applied by all branches of government and the judiciary as a framework for laws, court decisions and policies on gender equality and the advancement of women;**

(b) **Take appropriate measures to implement the recommendations in the Committee's views on communication No. 47/2012, *González Carreño v. Spain*;**

(c) **Enhance women's awareness of their rights under the Convention and the remedies available to them to claim violations of such rights, and ensure that information on the Convention, the Optional Protocol and the Committee's general recommendations is provided to all women, including women in rural areas and migrant women;**

(d) **Provide legal education and regular training for government officials, judges, lawyers, magistrates, prosecutors, police officers and other law enforcement officials on the Convention and the Optional Protocol and on their application, so that the Convention and the Optional Protocol can serve as an effective framework for all laws, court decisions and policies on gender equality and the advancement of women.**

Reservations and declarations

12. The Committee notes that the State party maintains its declaration to the Convention regarding the constitutional provisions on succession to the Spanish Crown.

13. **The Committee reiterates its previous recommendation and encourages the State party to consider the timely withdrawal of its declaration to the Convention concerning the succession to the Spanish Crown.**

National machinery for the advancement of women

14. The explanations given notwithstanding, the Committee notes with concern:

(a) The restructuring of the State party's national machinery for the advancement of women, the elimination of the Ministry of Equality and the replacement of the Institute of Women with the Institute for Women and Equal Opportunities;

(b) That such restructuring measures have affected the ability of the State party to ensure the development and effective implementation of gender policies and may dilute the focus on gender as a cross-cutting element;

(c) The absence of a consistent strategy on gender equality at the national level and insufficient institutionalized and systematic coordination between the autonomous communities and the central Administration, as well as the reduction of the competencies with regard to gender equality and gender-based violence of local authorities through the amendment by Law No. 27/2013 of article 27 of Law No. 7/1985 on local administration;

(d) The limited cooperation between the Council of Women's Participation, which is an advisory body on equality between men and women, and civil society organizations working on women's issues in the State party.

15. **In accordance with its general recommendation No. 6 on effective national machinery and publicity and the guidance provided in the Beijing Platform for Action on the conditions necessary for the effective functioning of national mechanisms, the Committee recommends that the State party:**

(a) **Increase the resources allocated to the Institute for Women and Equal Opportunities to ensure that a sharp focus on women's rights is maintained and gender can be mainstreamed in all its activities, and consider re-establishing the Ministry of Equality, with the human and financial resources necessary to discharge its mandate, in order to have a high-level mechanism capable of initiating, coordinating and implementing gender equality policies;**

(b) **Strengthen coordination between the autonomous communities and the central Administration by clearly defining their mandates and responsibilities in relation to women's rights, and conduct regular monitoring and evaluation of such coordination;**

(c) **Allocate adequate human, financial and technical resources to the various mechanisms of the national machinery for the advancement of women, as appropriate to their mandates, and strengthen cooperation and coordination between those mechanisms and women's civil society organizations.**

Temporary special measures

16. The Committee reiterates its concern about the limited understanding of the State party of the concept of temporary special measures, as outlined in article 4 (1) of the Convention and its general recommendation No. 25 on the subject, and is concerned about the absence of a comprehensive strategy for implementing such measures to achieve substantive equality of women and men in the State party in all areas of the Convention in which women are underrepresented or disadvantaged.

17. **Recalling article 4 (1) of the Convention and its general recommendation No. 25, the Committee recommends that the State party:**

(a) **Familiarize all relevant State officials and policymakers with the definition of temporary special measures and adopt and implement such measures, including time-bound goals and quotas, directed towards the achievement of de facto or substantive equality between women and men in all areas in which women are underrepresented or disadvantaged;**

(b) **Address the root causes of the unsatisfactory implementation of the existing temporary special measures and introduce provisions into its legislation to encourage the use of such measures in both the public and private sectors.**

Stereotypes

18. The Committee welcomes the establishment of the Observatory of Women's Image with a mandate to, among other things, receive complaints about sexist advertisements, as well as the prohibition of various publicity campaigns considered sexist. It remains concerned, however, about the persistence of entrenched traditional attitudes and stereotypes concerning the roles and responsibilities of women and men in the family and in society and recalls that such stereotypes are a root cause of violence against women. The Committee reiterates its concern about insufficient positive media portrayals and images of ethnic minority women, Roma women, migrant women and women with disabilities. The Committee also remains concerned that no measures have been taken to eliminate stereotypes in the education system and that school curricula and textbooks have not been revised.

19. **The Committee urges the State party:**

(a) **To put in place a comprehensive strategy with proactive and sustained measures to eliminate gender stereotypes, by reviewing its legislation relating to education, adopting targeted programmes in the education system, revising textbooks and curricula and conducting awareness-raising campaigns**

directed at women and men generally and at media and advertising agencies specifically;

(b) To use innovative measures targeting the media to strengthen understanding of substantive equality of women and men and use the education system to promote positive and non-stereotypical portrayals of women;

(c) To monitor and review the measures taken to assess their impact and take appropriate action.

Violence against women

20. While noting the existence of a specific law prohibiting violence against women (Organic Law No. 1/2004) and the development by the Ministry of the Interior of a system to monitor cases of gender-based violence (Sistema VioGén), the Committee is alarmed by the prevalence in the State party of violence against women, including sexual violence, and by the high percentage of women who have died as a result of a gender-based violence in close relationships. It is particularly concerned about the following issues:

(a) Organic Law No. 1/2004 does not cover the full range of gender-based violence outside of intimate partner violence;

(b) Number of children killed by their father during the exercise of visiting rights (20 between 2008 and 2014);

(c) Deterioration of protective services for women who are victims of domestic violence in several autonomous communities, including the limited availability of shelters for women and children.

21. **Recalling the provisions of the Convention and its general recommendation No. 19 on violence against women, the Committee urges the State party:**

(a) To revise its legislation on violence against women to include other forms of gender-based violence, such as violence by care providers, police violence and violence in public spaces, workplaces and schools;

(b) To provide mandatory training for judges, prosecutors, police officers and other law enforcement officials on the Convention and the Optional Protocol and on the strict application of criminal law provisions on violence against women and on gender-sensitive procedures for interviewing and treating women who are victims of violence;

(c) To put in place comprehensive measures to prevent and address violence against women and girls and ensure that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and adequately punished;

(d) To encourage women to report incidents of domestic and sexual violence to law enforcement bodies by destigmatizing victims, sensitizing the police and judiciary and raising awareness about the criminal nature of such acts;

(e) To provide adequate assistance and protection to women who are victims of violence by providing sufficient shelters, including in rural areas,

and enhancing State cooperation with non-governmental organizations providing shelter and rehabilitation to victims;

(f) **To collect statistical data on domestic and sexual violence disaggregated by sex, age, nationality and relationship between the victim and the perpetrator.**

Trafficking and exploitation of prostitution

22. While noting the adoption of a framework protocol for the protection of victims of trafficking of human beings by the State party in 2011 and the efforts by the State party to develop strategies and improve the legal framework for protecting and assisting victims of trafficking, in line with the Committee's previous concluding observations (CEDAW/C/ESP/CO/6, para. 22), the Committee remains concerned about the prevalence of the trafficking of women and girls to the State party and the absence of comprehensive anti-trafficking legislation, as well as the failure of the State party to criminalize all forms of trafficking. It is also concerned about the limited definition of pimping, which may impede the adequate prosecution of the exploitation of prostitution, as well as the limited data currently available to determine the scale of the phenomenon.

23. **The Committee recommends that the State party:**

(a) **Adopt comprehensive anti-trafficking legislation with a gender perspective and an explicit definition of trafficking in persons in accordance with international standards;**

(b) **Continue to intensify efforts aimed at bilateral, regional and international cooperation to prevent trafficking and prosecute traffickers;**

(c) **Adopt a comprehensive approach to address the phenomenon of exploitation of prostitution; collect data and undertake analysis; provide sufficient shelters, crisis centres and exit and reintegration programmes, as well as alternative income-generating opportunities for women who wish to leave prostitution; and take measures to reduce the demand for prostitution;**

(d) **Adopt a comprehensive definition of pimping to make possible the adequate prosecution of those who exploit prostitution.**

Participation in political and public life

24. The Committee welcomes the increase in the representation of women in the parliament to 35.5 per cent and in the legislatures of the autonomous communities to 44.6 per cent. It is concerned, however, about the generally low participation of women in political and public life, in particular in decision-making positions at the autonomous community level (4 of the 17 presidents of autonomous communities are women), in the diplomatic service (12 of 199 ambassadors are women) and in the judiciary.

25. **The Committee recommends that the State party:**

(a) **Increase the participation of women in political and public life at all levels, including by adopting temporary special measures, such as statutory quotas, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25;**

(b) **Build the capacity of and increase access to campaign financing for women candidates to enable them to compete effectively with their male counterparts;**

(c) **Conduct awareness-raising activities for politicians, community leaders, journalists and the general public on the importance of the participation of women in decision-making in order to promote understanding that the full, equal, free and democratic participation of women on an equal basis with men in political and public life, including in international representation, is a requirement for the full implementation of the Convention.**

Education

26. The Committee is concerned that women and girls continue to choose fields of education that are traditionally female-dominated (only 26.4 per cent of students enrolled in engineering and architecture and 9.8 per cent enrolled in sports studies are women) and that they remain underrepresented in technical and vocational education. The Committee is also concerned about the low level of school attendance and the high dropout rate among Roma girls, notwithstanding some positive achievements by the State party at the basic level of education in 2013. The Committee is also concerned that the course on education for citizenship and human rights has been replaced with optional courses on civil and social values and ethical values, and that there is currently no mandatory, comprehensive and age-appropriate education in schools on sexual and reproductive health and rights.

27. **The Committee recommends that the State party:**

(a) **Intensify its efforts to provide specific training and to diversify academic and vocational choices for women and men and take further measures to encourage women and men to choose non-traditional fields of education and careers;**

(b) **Ensure that all gender stereotypes are eliminated from textbooks and that school curricula, academic programmes and professional training for teachers cover women's rights and promote gender equality;**

(c) **Provide mandatory, comprehensive and age-appropriate education on sexual and reproductive health and rights to girls and boys as part of the regular school curriculum, including on responsible sexual behaviour and prevention of early pregnancy and sexually transmitted diseases, taught by appropriately trained personnel;**

(d) **Take effective measures to retain Roma girls in school and increase their enrolment through temporary special measures such as scholarships and free provision of textbooks.**

Employment

28. The Committee is concerned that the austerity measures introduced in response to the economic and financial crisis have had a severe and disproportionate impact on women, in particular women with disabilities, older women and women domestic workers. Women have faced unemployment, reductions in social security and dependent care payments, wage freezes and the transformation of full-time jobs

into part-time jobs with overtime hours. It is particularly concerned about the following issues:

(a) The persistent gender wage gap, which at 17.8 per cent is higher than the average in the European Union; vertical and horizontal segregation in the labour market; and the concentration of women in part-time work, which adversely affects their career development and pension benefits;

(b) The low representation of women in managerial and decision-making positions and on boards of directors (18.2 per cent) and that neither Organic Law No. 3/2007 on effective equality for men and women nor Law No. 31/2014 amending the Corporations Act provides sanctions for the non-enforcement of the required gender balance on the boards of directors of large companies;

(c) That the State party has not ratified the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.

29. **The Committee recommends that the State party:**

(a) **Review its legislation and policies in order to promote equal opportunities and equal treatment of women in employment, including career opportunities, and to limit the exposure of women to segregated and precarious work;**

(b) **Restore the financing of the implementation of Law No. 39/2006 on the promotion of personal autonomy and care for dependent people;**

(c) **Continue to take specific and proactive measures to eliminate the gender pay gap and create more opportunities for women to gain access to full-time employment;**

(d) **Take measures to achieve the equal and full participation of women in decision-making in the economic sphere, in particular on the boards of directors of large companies, by introducing mandatory quotas;**

(e) **Adopt temporary special measures to accelerate the equal participation of women from disadvantaged groups in the labour market, including migrant women, Roma women, single mothers, older women and women with disabilities, and undertake comprehensive studies on the employment and working conditions of those groups of women, with recommendations for enhancing their effective participation in the labour market;**

(f) **Improve the position of domestic workers with a view to ratifying the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.**

Health

30. The Committee is concerned:

(a) That the legislative amendment to Royal Legislative Decree No. 16/2012 excluded migrants in irregular situations from universal health coverage and had a disproportionate impact on migrant women because it deprived them of free access to sexual and reproductive health services. It therefore represented an opportunity

lost to identify victims of gender-based violence and trafficking and to provide support to victims of sexual violence;

(b) That a new bill that envisages making abortion for girls between 16 and 18 years of age dependent on the consent of the parents, caretakers or legal guardians was approved in February 2015 by the lower chamber of the parliament;

(c) That the budget for women living with HIV has been significantly reduced.

31. **The Committee, recalling article 12 of the Convention and its general recommendation No. 24 on women and health, recommends that the State party:**

(a) **Restore universal access to health care, including by repealing the amendment to Royal Legislative Decree No. 16/2012, with a view to ensuring health care for all women in the State party, regardless of their migration status;**

(b) **Ensure that the bill on the right to abortion for girls between 16 and 18 years of age is not adopted;**

(c) **Ensure the provision of adequate treatment to all women living with HIV.**

Rural women

32. The Committee notes with appreciation the increases in grants for the advancement of rural women, innovation excellence awards and training for rural professionals. It expresses its concern, however, that, notwithstanding the provisions of Law No. 35/2011 on shared ownership of agricultural enterprises, more than 70 per cent of the owners are men.

33. **The Committee recommends that the State party eliminate all barriers to the implementation of Law No. 35/2011 on shared ownership of agricultural enterprises.**

Disadvantaged groups of women

34. While noting that the State party has taken various measures, including legislative, to improve the situation of disadvantaged groups of women, the Committee is concerned that budget cuts and recent legislative reforms may undermine such progress. It is particularly concerned about the situation of migrant women, Roma women, older women and women with disabilities.

35. **The Committee recommends that the State party:**

(a) **Adopt measures, including temporary special measures within the meaning of article 4 (1) of the Convention and the Committee's general recommendation No. 25, to ensure equal rights and opportunities for women who face intersecting forms of discrimination, in particular migrant women, Roma women, older women and women with disabilities;**

(b) **Adopt the legislative measures and targeted policies necessary to address multiple forms of discrimination and promote the integration into**

society of disadvantaged and marginalized groups of women facing intersecting forms of discrimination.

Refugee and asylum-seeking women

36. While noting the information provided by the State party that refugee status was granted in 48 cases on the grounds of gender-based persecution pursuant to Law No. 12/2009 on asylum and subsidiary protection, the Committee is seriously concerned about the practice of expulsion of people crossing the border at Ceuta and at Melilla, including women and girls, with no individual gender-specific evaluation of each case.

37. **In line with the provisions of the Convention and its general recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, the Committee calls upon the State party:**

(a) **To improve protection for women and girl asylum seekers in the autonomous cities of Ceuta and Melilla by ensuring that no violence is used at border controls, by ensuring access to asylum procedures for all claimants, regardless of their country of origin or mode of entry, by establishing a fair and efficient asylum procedure and by improving reception conditions and ensuring that gender is taken into account;**

(b) **To establish contingency plans and preparedness for arrivals at land and sea borders in order to deal with increasing mixed migration flows, while ensuring protection-sensitive entry systems that also have a gender and age perspective;**

(c) **To provide adequate treatment for women and girl asylum seekers with specific needs and adopt a gender perspective when developing programmes for assistance.**

Marriage and family relations

38. While noting that in its 2013 guidelines on proceedings relating to gender-based violence the General Council of the Judiciary rejected the validity of so-called "parental alienation syndrome", the Committee is concerned that the concept continues to be used in a number of judicial decisions in the State party to withdraw child custody from the mother and to grant it to a father who is accused of domestic violence. The Committee is concerned that existing and future legislative mechanisms will not adequately address the consideration that needs to be accorded to the existence of domestic violence in cases to determine child custody. The Committee is also concerned about attempts to pass legislation that sets joint physical custody as the default rule in determining such cases.

39. **The Committee recommends that the State party:**

(a) **Ensure that visitation rights without supervision are not granted to fathers in cases in which the rights, well-being and safety of children may be jeopardized;**

(b) **Ensure that legislation that sets joint physical custody as the default rule in determining cases of child custody is not adopted and take measures to**

adequately address the consideration of the specific needs of women and children to determine child custody in cases of domestic violence.

Beijing Declaration and Platform for Action

40. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

Millennium Development Goals and the post-2015 development framework

41. **The Committee calls for the integration of a gender perspective, in accordance with the provisions of the Convention, into all efforts aimed at the achievement of the Millennium Development Goals and into the post-2015 development framework.**

Dissemination

42. **The Committee recalls the obligation of the State party to systematically and continuously implement the provisions of the Convention. It urges the State party to give priority attention to the implementation of the present concluding observations and recommendations between now and the submission of the next periodic report. The Committee therefore requests that the present concluding observations be disseminated in a timely manner, in the official languages of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the national parliament, the parliaments of the autonomous communities and the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organizations, universities, research institutions and the media. It recommends that the present concluding observations be disseminated in an appropriate form at the local community level to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the Convention, the Optional Protocol thereto and relevant jurisprudence, in addition to the Committee's general recommendations, to all stakeholders.**

Ratification of other treaties

43. **The Committee notes that the adherence of the State party to the nine major international human rights instruments[1] would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying**

[1] The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to which it is not yet a party.

Follow-up to the concluding observations

44. **The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 21 (a), (b) and (f) and 37 (c) above.**

Preparation of the next report

45. **The Committee invites the State party to submit its ninth periodic report in July 2019.**

46. **The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I).**